

## **REMARKS**

Following entry of the foregoing amendments, claims 44 and 69 to 73 will be pending in the application. Claim 44 has been amended, and new claims 69 to 73 have been added, herein. No claims have been canceled. Support for the amendments to claim 44 is found throughout the specification as originally filed, including, for example, page 25, lines 24 to 29 and Examples 2A and 7. Support for claims 69, 71, and 73 is found throughout the specification as originally filed, including, for example, page 7, lines 15 to 19. Support for claims 70 and 72 is found throughout the specification as originally filed, including, for example, page 6, line 23 to page 7, line 1. Because the amendments remove issues for appeal, Applicants respectfully request entry thereof. MPEP § 714.13.

Applicants respectfully request reconsideration of the rejections of record in view of the foregoing amendment and the following remarks.

### **Alleged Double Patenting**

Claim 44 has been rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claim 6 of U.S. Patent No. 5,623,065. Although Applicants question whether there has been an adequate showing that those of ordinary skill in the art would have found claim 44 to have been obvious in view of claim 6 of the referenced patent, they nonetheless submit herewith the requested terminal disclaimer. This is being done solely in an attempt to advance prosecution of this patent application, and should not be construed to constitute an acknowledgment of obviousness or any other substantive relationship among the involved patent claims.

### **Alleged Anticipation**

**A.** Claim 44 has been rejected under 35 U.S.C. § 102(a) as allegedly anticipated by published PCT application number WO 91/10671 (“the Cook application”). Without conceding the correctness of the rejection, and to advance prosecution, claim 44 has been amended to recite compounds comprising a plurality of linked nucleosides divided into at least two regions, wherein a first of the regions may include *a plurality of consecutive α-nucleosides*, and a second of the regions includes *at least 5 consecutive 2'-deoxy-erythro-*

pentofuranosyl  $\beta$ -nucleosides. Although the Cook application describes linked nucleosides having a first region of  $\alpha$ -nucleosides and a second region of 2'-deoxy-erythro-pentofuranosyl  $\beta$ -nucleosides, the application does not describe or suggest linked nucleosides having a first region that includes a plurality of consecutive  $\alpha$ -nucleosides and a second region of at least 5 consecutive 2'-deoxy-erythro-pentofuranosyl  $\beta$ -nucleosides. Accordingly, the Cook application fails to teach or suggest all the limitations of amended claim 44, and thus fails to anticipate the claim. Applicants accordingly, respectfully request withdrawal of the rejection.

**B.** Claim 44 has been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Connolly, B.A., *et al.*, *Nucl. Acids Res.*, 1989, 17, 4957-4974 ("the Connolly article"). Applicants respectfully request reconsideration and withdrawal of the rejection because the Connolly article fails to teach or suggest all the limitations of claim 44. For example, claim 44 recites compounds that comprise linked nucleosides divided into at least two regions. One region may comprise a plurality of consecutive 4'-thionucleosides linked by charged 3'-5'phosphorous linkages. As explained in the specification, 4'-thionucleosides are nucleosides in which the 4' ring oxygen atom of the pentofuranosyl ring is replaced with a sulfur atom.<sup>1</sup> In contrast, the Connolly article describes 4-thiothymidine nucleosides in which an oxygen atom of the thymidine is replaced with a sulfur atom.<sup>2</sup> The Connolly article thus describes nucleosides having thio-modified bases rather than thio-modified sugar residues, and fails to teach or suggest compounds comprising 4'-thionucleosides linked by charged 3'-5'phosphorous linkages. The article, accordingly, fails to anticipate the claimed compounds, and Applicants accordingly, respectfully request withdrawal of the rejection.

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<sup>1</sup> Page 19, lines 18 to 20.

<sup>2</sup> The positions in the sugar residues of a nucleoside are identified with a number followed by the prime symbol, while the positions in the base of a nucleoside are identified with a number only.

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**PATENT  
REPLY FILED UNDER EXPEDITED  
PROCEDURE PURSUANT TO  
37 CFR § 1.116**

**Conclusion**

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. Accordingly, an early and favorable Action is respectfully requested.

Respectfully submitted,

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